**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

Appeal No. 491 of 2005
In
Judge's Order No. 49 of 2005
In
Arbitration Petition No. 336 of 2004

Ashok Leyland Finance Ltd. .. Appellant
V/s.
M/s. Ambarwadikar & Co. & Ors. .. Respondents

Ms. Shakuntala Joshi for the Appellant
None present for the Respondents

**CORAM : DR. S. RADHAKRISHNAN &**
**S.C. DHARMADHIKARI, JJ.**
**DATED : 16.08.2005.**

**P.C.:-**

1. By the Appeal, the Appellant is challenging the order dated 22.3.2005 passed by the learned Single Judge by way of Judge's order. The learned Single Judge had refused to grant forcible possession of the "Excavators". The above order was passed on the order dated 25.10.2004 passed by the learned Single Judge in Arbitration Petition, wherein the learned Single Judge has observed as under:-

> "i) The Court Receiver, High Court, Bombay is appointed Receiver of the said vehicle. The Court Receiver shall however appoint the Respondent as his agent on the Respondent furnishing security to the satisfaction of the Court Receiver. No royalty however shall be payable by the Respondent."

2. The main grievance of the learned counsel for the Appellant is that the Court Receiver should formally take possession of the aforesaid Excavator and then allow the Respondents to continue as an Agent after

executing the Agency agreement and should also furnish security to the satisfaction of the Court Receiver.

3. Having regard to the facts and circumstances of the case, we direct the Court Receiver to formally take possession of the excavator and allow the Respondents to continue as the Agents subject to the condition that the Respondents shall execute an Agency agreement within a period of two months. The Respondents shall also furnish security to the satisfaction of the Court Receiver. Appeal stands disposed of accordingly.

**(DR. S. RADHAKRISHNAN, J.)**

**(S.C. DHARMADHIKARI, J.)**